The Cochin Co-operative Land Mortgage Bank Regulation Amendment Bill.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I beg to move that the Cochin Co-operative Land Mortgage Bank Regulation Amendment Bill be read in Council.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—As Hon'ble Members are no doubt well aware, under the law of transfer obtaining in Cochin all accretions like improvements to properties etc. enure to the benefit of the mortgagee. I will cite a simple illustration. Suppose a property is mortgaged for 1000 rupees and it is let out to a tenant and the tenant makes improvements or the owner also makes improvements. All these are accretions and all these enure to the benefit of the mortgagee. That is the well-known law. Recently however the Chief Court interpreting a particular section of the Cochin Tenancy Regulation happened to pass a decision somewhat to the contrary effect. They practically said that in certain cases improvements made by tenants could not enure to the benefit of the martgagee. Now I must say that the Cochin Transfer of Property Regulation came into effect only some time later after the passing of the decision of the Chief Court. It is a question whether the promulgation of an Act like the Transfer of Property Regulation in Cochin will not make some difference. Even assuming that the Tenancy Regulation did make such a difference as was pointed out by the learned Judges the further question will be whether the promulgation of the Transfer of Property Regulation in the State will not wipe out the force of that provision contained in the Tenancy Regulation. But the Gevernment had to take notice of the fact that the Land Mortgage Bank authorities were rather nervous about this matter. It will never do good for the Bank to start settling claims of tenants or third parties like that. The Land Mortgage Bank Authorities requested that legislation may be introduced to place this matter beyond doubt and this bill is intended to secure that object. The operative clause of the bill reads as follows:—"and improvements if any made by the lessee will be treated as accession to the mortgaged property and will be available to the bank for realisation of the mortgage amount." Government thought it better to place the matter

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beyond doubt, to treat all improvements as accession to the mortgage security under Section 17 (8) of the Cochin Transfer of Property Regulation. Up till recently when the Regulation was introduced the principles of the law of transfer of property alone were obtaining here. We had no Transfer of Property Regulation. Now some difference has been made after the introduction of the Regulation. Government considered that it would be better to place the matter beyond controversy.

Mr. T. K. Nayar *(Pazhayannur).*—On a point of information, what about the other mortgages?

Mr. Thomas Manjuran *(Government Advocate and Law Officer.)*—With regard to other mortgages Government are not prepared to concede that the effect of the existing law will not be just as what is declared in connection with land mortgage bank. If however a question arises then the Government will seriously consider the question of taking action with regard to other mortgages also. With regard to the Land Mortgage Bank the matter being urgent will not brook any further delay.

With regard to the other mortgages being placed on the same footing it will be taken up at the proper time. If Hon'ble Members think that the general law itself should be amended it is open either for the Hon'ble Member himself or to move the Government to introduce a bill to that effect. We are now only concerned with the Land Mortgage Bank Regulation which has to be amended in terms so as to remove any doubts in the minds of the authorities of the Land Mortgage Bank.

Mr. A. V. Moothedan *(Chalakkudi).*—On a point of information, Sir, what is the position of a lessee prior to the mortgage whether he makes improvements before or after the mortgage?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—With regard to improvements after the mortgage and that with the knowledge of the mortgagee, I presume the position would be absolutely the same.

Mr. A. V. Moothedan *(Chalakkudi).*—My question is whether this legislation will affect the improvements made by a lessee prior to the mortgage whether such improvements are made before or after the mortgage. Such a lessee entered into a contract with land-lord before the mortgage and he had absolute freedom to make or not to make improvements. How can a subsequent mortgagee take advantage of the improvements made by such a lessee? It is quite inequitable and very hard

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Regarding the improvements made by a lessee after the mortgage, I have no complaint. So I want it to be made perfectly clear that the improvements made by a lessee prior to the mortgage, even though such improvements are made after the mortgage, should not be attached and sold by the Bank. This should be done by suitable amendments.

Mr. P. Kumaran Ezhuthassan *(Vadakkancherri)*—Mr. President, Sir, the decision of the Hon'ble Chief Court mentioned here is in the statement of objects an reasons accompanying the Bill—a very clear decision which says that whether the lease was effected subsequent to the mortgage or prior to it the improvements effected by the lessee have to be paid for under the provisions of the special enactment known as the Tenancy Regulation. It is stated in that ruling that when there is a general law like the Transfer of Property Act which says one way and there is a special enactment, like the Tenancy Regulation, which in clear terms lays down the relations between landlord and tenant stating the other way, the provisions of the special law has to be given effect to. The Hon'ble Chief Court has accordingly ruled in 4 Cochin Law Journal, 119 case, that the tenant has to be paid for his improvements whether the tenancy came into existence subsequent to the mortgage or before the same was executed. That being the position clearly laid down in the recent decision of the Cochin Chief Court I do not see why the Government is anxious to show this special solicitude to the Land Mortgage Bank. If the decision laid down by the Chief Court is good law as far as the other transactions are concerned, as regards the transactions of the Land Mortgage Bank also it must be perfectly good law. At the time of the advancing of money the Land Mortgage Bank authorities take into account the security that is offered and on the security of that and that alone, consideration of course being had for the capacity to repay, they advance money. So they have nothing to fear by way of deterioration of the original security.

What is laid down in the recent decision of the Chief Court is only equitable as far as the relation between the Landlord and the tenant is concerned. The decision has to be uniformly accepted on the ground of facilities and inducement for improvement of land also. In this state of affairs I do not find any reason for the amendment of the Co-operative Land Mortgage Bank Regulation. If really it is thought by the Government that the recent decision of the Chief Court is bad law it is for them to consider what steps have to be taken to mend matters

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generally and not preferentially to the Land Mortgage Bank. In this view I am constrained to oppose the Bill.

* **Mr. E. Ikkanda Warriar** (*Urakam*).—Sir, I too oppose the Bill and my main ground of objection is that the law as laid down in the Chief Court decision is good law. It will work a great hardship upon the tenants if the law is amended as proposed by this bill. The Tenancy Regulation was intended to encourage tenants to improve the property. Formerly, before the enactment of the Tenancy Regulation, if there was a contract between the landlord and the tenant that the tenant would not have to be paid for the value of improvements effected on the property they need not be given the value of improvements. That was found to be unconscionable and the Government stepped in to legislate on behalf of the tenants giving them certain securities of tenancy and certain rights in the land. If public policy required it, equity and justice also required it. Otherwise all the improvements effected by the tenants will be taken away by the Jenmi. Let us see what is the position here. The landlord mortgages his property for a debt of his. Subsequently the tenant effects improvements at a heavy cost and improves that property. The property will have to be sold for the debt of the landlord and that for no fault of the tenant. If the law is that all the improvements that the tenant is effecting subsequent to the mortgage to the Land Mortgage Bank are to go for the debt of the landlord and if the properties or his improvements are sold for the debt of his landlord then it will really be very hard. I therefore submit that this is a very mischievous measure. The Bank authorities have absolutely no reason to be nervous. If they are nervous they have only to thank themselves. The tenants are not responsible for that. After all why should they be nervous? They are taking security only of the property belonging to the landlord. They do not advance money in the hope that at a distant date the landlord will lease the property to a tenant and the tenant will effect improvements and these improvements will enure to the benefit of the security. I therefore submit that it is highly inequitable that the tenant should be deprived of the fruits of his labour for no fault of his. I will also say that the passing of this will have absolutely no effect. If the tenant knows that the land is mortgaged to the Land Mortgage Bank he will never make improvements on the property because there is every chance of it being sold away for the debt due to the

* Speech not corrected by the Hon'ble Member.

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Bank. There is absolutely no justification for the Bank authorities to be nervous. They have never bargained for the work of the tenant. They have not advanced money on this anticipation. It is highly dangerous to the State itself. After all the improvement of the property adds to the wealth of the State and the enactment of the Tenancy Regulation is encouraging tenants to improve the property and thus improve the State. This amendment will be taking away what you have given to the tenants some years ago. On that ground mainly I object to this piece of legislation.

Mr. P. Raman Menon *(Mulakunnathukavu).*—Sir, we are not here called upon to see whether the recent ruling of the Chief Court is good or bad law. The Chief Court has passed a certain decision allowing tenants their value of improvements effected under whatever circumstances as the Tenancy Regulation in fact says that the tenants are entitled to get the same, on eviction irrespective of the nature of the holding. Such being the provision of law they were constrained to hold that the tenants are entitled to get the value of improvements. In the opinion of the Hon'ble Member for Oorakam not allowing the tenants such value is very hard. But there is hardship, great hardship in the other way also. Suppose there is a waste land which was mortgaged for Rs. 500. After mortgaging that property the mortgagor leased the same out and the lessee erected a building costing Rs. 10,000. Will not that be causing great hardship on the mortgagee if he can get his mortgage money or secured property only after paying Rs. 10,000 to the lessee? According to the law as it stood then the tenant was entitled to the full value of improvements. But then the transfer of property Act which has now come into force says that no mortgagee will be liable to pay value of improvements on the mortgaged property effected by any one after the mortgage. If that is so the Land Mortgage Bank also will not have to pay. The Law Member says that even though the Chief Court would change its decision in the light of the Transfer of property Regulation the Bank people are very nervous about it. They may be nervous. What about the others? They are more nervous. As a matter of fact I am now shivering (Laughter). Others are executing and getting executed mortgages every day. If there is real danger in the decision of the Chief Court in spite of the passing of the Transfer of Property Regulation for the Land Mortgage Bank authorities there is danger also so far as others are concerned. If the Transfer of Property Act is not sufficient safeguard for

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the Bank then it is equally so for others also. If at all an amendment is necessary it is an amendment to the general law and not to the Land Mortgage Bank Regulation. If for others the Transfer of Property Act is sufficient it ought to be so for them also. If you come in for any special treatment for this Bank, say so. Don't misguide us. There is positive danger in this. For this special enactment to protect the Bank now, confirms the view referred to of the Chief Court and every ordinary mortgagor will be hereafter liable to pay value of improvements in spite of the Transfer of Property Regulation.

Mr. A. Narayana Menon *(Vyttila).*—As stated by the Law Member this amendment has been proposed owing to a ruling of the Division Bench of the Chief Court. But there was a prior ruling to the effect that in cases of leases executed after a mortgage the improvements effected by the lessee will go to the benefit of the mortgagee when he sues for the mortgage money. It is clear that once there is a mortgage the owner has only the equity of redemption left for him to lease out. So, it is only the equity of redemption that is leased out, in such leases, and the lessee cannot be heard to say that he must be paid by the person who has taken a prior mortgage. That was the correct law laid down by another division Bench of the Chief Court. But the question of mortgaging properties after leases stands on a different footing. If there is a lease subsisting on the mortgage the lessee's right was created prior to the mortgage; whether he effected the improvements prior, to it or subsequent to it is no point for consideration. That is the correct position. I submit that it should not be disturbed on account of the fact that we have got a Land Mortgage Bank. We have here rather a difficult position. If I am in order I will suggest that this Bill be referred to a Select Committee which may go into all the intricacies of the matter and the report of the Select Committee may be awaited before the Bill is passed into law.

*മിസ്റ്റർ ടി. കെ. നായർ *(Pazhayannur)*.—സർ, ഈ ബില്ലിനെ പ്പറ്റി വിവരമുള്ള പലരും പ്രസംഗിച്ചുകഴിഞ്ഞു. എനിക്കും ഇതിനെ ക്കുറിച്ച് അധികമൊന്നും പറയാനില്ല. കോഓപ്പറേറീവ് ലാണ്ടുമോ ർട്ടഗേജ് ബാങ്കിനു ഗുണമുള്ളതു എന്താണെന്നുവച്ചാൽ അതു് നാട്ടുകാ ക്കും ഉപകാരമാക്കിത്തരണമെന്ന നിയമമില്ലേ? ഇതിൽ അതു് കാണു ന്നില്ല. ലാണ്ടുമോർട്ടഗേജ് ബാങ്കിൽമാത്രം അത്യാവശ്യമാണെന്നു കു

* Speech not corrected by the Hon'ble Member.

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ണ്ട ആ ഗ്രണം മറ്റുള്ള ആളുകൾക്കും കൊടുത്തുക്കൂടേ? ചീഫ് കോർട്ട് റൂളിംഗ് ശരിയാണെന്നോ, ട്രാൻസ്ഫർ ആഫ് പ്രോപ്പർട്ടീസ് ആക്ട്, ശരിയാണെന്നോ, ടെനൻസിറഗുലേഷൻ ശരിയാണെന്നോ, ഒന്നും എനിക്കറിഞ്ഞുക്കൂടാ. ഇതുവരെയുള്ള നടപടി ശരിയായിരുന്നു. ഈ അമൻറ്മെൻറുബിൽ എല്ലാവക്കും ബാധകമായിട്ടുവരണം. ഈ ബിൽ ഉണ്ടാക്കിയ ഗവമ്മെൻറിനു, മറ്റുള്ളവക്കു വേണ്ടിയും ഗ്രണം ചെയ്യുവാനുള്ള ഒരു ചുമതലയുണ്ട്. ലാണ്ടുമോർട്ടഗേജ് ബാങ്കിൻെറ കാര്യം ഞങ്ങൾ നോക്കുന്നുണ്ട്; ബാങ്കിൻെറ രക്ഷക്കു മാത്രമാണെങ്കിൽ അതിനു ഒരു ബിൽ ഇവിടെ കൊണ്ടുവരാൻ സാധിക്കും. ഇതു ഒരു ന്യായമായ മറുപടിയല്ല. അദ്ദേഹം പറയുന്നതു ട്രാൻസ്ഫർ ആഫ് പ്രോപ്പർട്ടിസ് ആക്ടിൽ ഈ റൂളിംഗിനു വിരോധമായിട്ടുള്ള തീപ്പുണ്ടെങ്കിൽ പിന്നെ ഈ ബിൽ എന്തിനാണെന്നാണു്. അതു് എനിക്കു മനസ്സിലായില്ല. ഞാൻ അനവധി ആലോചിച്ചുനോക്കി, ഇതു കൊണ്ടുവരുവാൻ കാരണമെന്താണെന്നു്. ചീഫ് കോർട്ടു് റൂളിംഗിനു ഒരു അമൻറുമെൻറു വേണമെന്നു അനവധി പ്രാവശ്യം ആവശ്യപ്പെട്ടിട്ടുണ്ടു്. ഈ തരത്തിൽ ഒരു ബിൽ കൊണ്ടുവന്നാൽ ലാണ്ടുമോർട്ടുഗേജ് ബാങ്കു ഡയറക്ടേഴ്സ് നെർവസ് ആണെന്നു വിചാരിക്കും. ലാണ്ടുമോർട്ടുഗേജ് ബാങ്കിനു ഗവമ്മെൻറിൽനിന്നും കൂടുതൽ സൗകര്യം ചെയ്തുകൊടുക്കുവാനാണു് ഈ ബിൽ കൊണ്ടുവന്നിട്ടുള്ളതെന്നു വിചാരിക്കുവാൻ ഞങ്ങൾക്കു തരമില്ല. അതുകൊണ്ടു് ഞങ്ങൾക്കു പ്രയാസമില്ലാത്തവിധത്തിൽഉള്ള ഒരു ബിൽ കൊണ്ടുവന്നാൽ കൊള്ളാം. ഈ ബിൽ സെലക്ടു കമ്മറ്റിക്കുപോയാൽ ഇതിൻെറവേഷം മാറുമെന്നു ബോദ്ധ്യമെനിക്കില്ല. ഈ പ്രിൻസിപ്പിളംതന്നെ തെറ്റാണു്. അതിനാൽ ബഹുമാനപ്പെട്ട എൻെറ സ്നേഹിതൻ പറഞ്ഞതിനോടു യോജിക്കാൻ ഞാൻ തയ്യാറില്ല. അതുകൊണ്ടു് ഇതു പിൻവലിച്ചാൽ കൊള്ളാമെന്നാണു് എൻെറ അപേക്ഷ.

Mr. A. Sankara Menon (*Trippunithura*).—Sir, the Hon'ble Law Member seems to hold that the general law is in support of this Bill. I cannot agree with him in that respect especially with regard to tenants who have been on the land when the mortgage was executed. If any special law is re-required for the Land Mortgage Bank and a special law is to be enacted I have no objection to it.

With regard to the decision of the Chief Court upon this matter, two views are possible. There is no doubt about that. There are conflicting decisions of the Chief Court itself upon the point. I do no not think it is necessary now to inquire which view is the correct one. This Bill only wants a special law for the Land Mortgage Bank and in that view with which I agree, I don't think that this Bill should be opposed.

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Mr. T. S. Narayana Ayyar *(Secretary to Government).*— Sir, I would like to say a word. The decision of the Chief Court, which was by a Division Bench, was towards the end of Karkatakam last, when the Transfer of Property Regulation as such had not become law in the State. It came into force only on the 1st of Chingam 1112. At the same time it is seen that section 70 of the British Transfer of Property act is referred to by the Judges in their Judgment. That is one thing. Secondly there is an old decision of the Chief Court in II Cochin, which is to the contrary. But the prior decision has been distinguished on the ground that it was before the Tenancy Regulation. As observed by the Hon'ble the Deputy President, much may be said probably on both sides. In fact, the decisions even in British India on this point are not uniform. What is it that is leased to the tenant? What is the 'holding' upon which the tenant can claim a charge for the value of improvements? If the property that is leased is one that is already secured in favour of the Land Mortgage Bank, then of course, it may be argued that his right to the value of any improvements made by him must be postponed to the security already given to the Land Mortgage Bank. It was brought to the notice of Government that moneys had already been advanced by the Bank on the basis of this interpretation of the law and in order to ensure a continuity of policy in the disbursement of loans and to prevent loss to the Bank, the Board of Directors pointed out the necessity of an amendment of the Land Mortgage Bank Regulation on this subject. Mortgages issued by the Bank stand on a separate footing from ordinary mortgages. The position of the Land Mortgage Bank is peculiar. It deals with what may be called 'trust' funds and it saves a particular class of debtors, viz., agriculturist-debtors. The debentures of the Bank are backed up by State guarantee both with regard to principal and interest. A special protection has, therefore, to be given to these mortgages and that is a matter of urgency. Hon'ble Members raised the question of amendment of the general law. With regard to that, I may state that my Hon'ble colleague the Law Member, wishes to await the result of another decision by the Chief Court on this point by a fuller Bench of that Court and after the Transfer of Property Regulation as such has actually come into force. That may wait, but the question regarding mortgages of the Land Mortgage Bank is, as pointed out by me, one of immediate urgency. Hon'ble Members will be pleased to view the question in this aspect. This is the principle of the amendment. Of course, if any matters of detail

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have to be gone into, Government will have no objection to the Bill going before a Select Committee.

Mr. A. Eachara Menon *(Chittur Rural).*—This amendment cuts at the very root of the Tenancy Regulation. Some Directors of the Land Mortgage Bank are said to get nervous. Why should they? They should not value one man's property to give a loan to another man. Let them value the property of the applicant alone and advance only 50 per cent of it. They have then no cause for nervousness. I cannot agree with Mr. T. K. Nayar when he says that the amendment should be made applicable in general. The tenant's property should be kept intact.

Mr. President.—I am afraid that issues have to some extent been mixed up. In bringing forward this measure, it was not the intention of Government to bring about any change in the existing law relating to the rights of tenants over improvements that they effect in relation to the rights of the mortgagee. Whether as the result of the application of the Transfer of Property Act which has been made subsequent to this pronouncement of the Chief Court, the Chief Court will, on further re-consideration and the application of the Transfer of Property Act, modify its decision or not, we are not in a position to say. In fact, assuming that the Chief Court still maintain that irrespective of the Transfer of Property Act this is the law of the land as they understand it it will then be for this House to decide whether in the comparative interest of the mortgagee and the tenant, a protection should be given to all mortgagees in the way in which protection is sought by the Land Mortgage Bank. That time, I submit, has not come and it is possible that there may be conflicting views on the subject. It all depends upon the mentality with which each member approaches this subject. Some members may be enthusiastic about the rights of the tenants over their improvements. Others, on the other hand, might look at it from the point of view of the original landlord and the facilities they would get for getting loans, and the necessity for safeguarding the mortgagee also. Much can be said on both sides. But what Government ask this House to consider is—Here is a Land Mortgage Bank which has been brought into existence by a special Act of this House, an institution which enjoys special previleges and which deals with money which has been guaranteed by the tax-payer of the State, because, after all, the share-capital of the Land Mortgage Bank is only one lakh of rupees and they are authorised to raise debentures to the extent of 25 lakhs and

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these debentures are guaranteed by Government. The result would be that if the Land Mortgage Bank loses money, it would be the tax-payers who ultimately have to shoulder the burden of the loss. In the light of the special circumstances relating to the Land Mortgage Bank, Government are of opinion that it is not possible to consider the question of the Land Mortgage Bank, in the same category as a private mortgagee. That is the clear position that Government take up and so far as Government are concerned, they do not consider that it is an anomalous or wrong position to take up. Take for example, the realisation of land revenue. Government have got extraordinary powers of realising land revenue in a manner which the private individual has not got to recover his dues. It has never been contended that the right enjoyed by Government to recover their dues should also be extendedto a private individual. Similarly, co-operative societies are exempted from the provisions of the Stamp Regulation. It has never been contended that this concession should be extended to private individuals. On the same analogy, Government contend that the Land Mortgage Bank working under the special circumstances in which it is working at present is entitled to a special protection to which a private mortgagee may or may not be entitled. It is for this House and for Government to decide later on when the question specially arises in that form whether this protection which is now sought to be given to the Land Mortgage Bank should also, in equity, justice and good conscience, be extended to private mortgagees. But that is not the issue at present. The issue is a simple one. The Land Mortgage Bank working on trust funds guaranteed by Government, which really comes to guarantee by the tax-payer of the State, is it or is it not entitled to special protection? If a safeguard on these lines is not given to the Land Mortgage Bank, what will happen? Then the Land Mortgage Bank will be more conservative in the policy of lending and it is for this House to decide whether it is in the interests of the tenants and their desire to safeguard the improvements of the tenants themselves and they are prepared to throw further handicaps in the way of land-holders in raising money at this cheap rate of the Land Mortgage Bank. Now, the question resolves itself into this: whether it is advantageous or disadvantageous. This is the point which this House must decide. The idea of Government is that irrespective of the rights of the private mortgages, Government are of opinion that the Land Mortgage Bank should enjoy these special rights with regard to the improvements effected by the tenants. That is clearly the opinion of Government and it is for

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this House to decide whether they will endorse that view or not. If Hon'ble Members think that there are any matters of detail, which will have to be gone into by reference to a Select Committee, Government have no objection. But then the principle is clear that in the opinion of Government, the Land Mortgage Bank as a mortgagee is entitled to some special protection regarding improvements effected by the tenants. That is the principle involved in this. If the House accept that principle, then the Bill may be referred to a Select Committee.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I move that the Bill be read in Council.

Motion was put and carried.

Secretary to the Council.—The title of the Bill is "The Cochin Co-operative Land Mortgage Bank Regulation Amendment Bill".

Mr. President.—Now, it is for the House to decide whether they will take it for consideration straight away.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I beg to move that the Bill be taken up for consideration forthwith. In moving that, I may also state that in view of certain difficulties expressed by some of the Hon'ble Members, it would be advantageous to send this Bill to a select committee. Government would be glad to do it.

* മിസ്റ്റർ കെ. അയ്യപ്പൻ *(Ezhuvas South).*— സർ, ബഹുമാനപ്പെട്ട പ്രസിഡണ്ടിന്റെ വിവരണം കേട്ടിട്ടും ഇതിനെ സംബന്ധിച്ചുള്ള പ്രയാസം നീങ്ങിയതായി തോന്നുന്നില്ല. ലാൻഡ്മോർട്ടഗേജ് ബാങ്കിൽ നിന്ന് പണം വാങ്ങുന്ന ആളുകൾ അവരുടെ സെക്യൂരിറ്റി വച്ചുമാത്രം വാങ്ങിയാൽമതി. സെക്യൂരിറ്റിയുള്ളവർക്ക് പണം കൊടുത്താൽ മതി. ന്യായമായിട്ട് എത്രയെല്ലാം സെക്യൂരിറ്റി തരണമൊ അത്രയും സെക്യൂരിറ്റിക്കുള്ള പണമല്ലാതെ ലാൻഡ്മോർട്ടഗേജ് ബാങ്കിൽനിന്നും കൊടുക്കേണ്ട. ഈ ഇഷ്യു ക്ലിയറായിട്ട് വച്ചാൽ ഇങ്ങിനേയുള്ള തർക്കത്തിന് വഴിയുണ്ടാകുന്നതല്ല. എന്തിന് വേണ്ടിയിട്ടും അതിനെ നശിപ്പിക്കുവാൻ പാടില്ല.

ദിവാൻ പ്രസിഡണ്ടവർകൾ പറഞ്ഞ ചില ദൃഷ്ടാന്തങ്ങളിൽ കോ ഓപ്പറേറ്റിവു സൊസൈറ്റീസിനു വരുന്നനഷ്ടം നിസ്സാരമാണ് എന്നു പറഞ്ഞു. അതുപോലെ മറ്റുപല ദൃഷ്ടാന്തങ്ങളിൽ വരുന്നനഷ്ടവും വളരെ നിസ്സാരമാണ്. അതുപോലെയല്ല ഇതിൽവരുന്ന നഷ്ടം. ഈ ലാൻഡ് മോർട്ടഗേജ് ബാങ്കുകൊണ്ടു കടക്കാർക്ക് ചെയ്യുന്ന ഗുണത്തേക്കാൾ വല

* Speech not corrected by the Hon'ble Member.

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തായ നഷ്ടം ഇപ്പോൾ പറഞ്ഞതുപോലെയുള്ള ഒരു തീരുമാനം വരുത്തുകയാണെങ്കിൽ കൂടിയാണാക്കുവരും. ഈ നഷ്ടത്തെ പരിഹരിക്കത്തക്ക ഒരു ഗ്രണ്ടം ലാൻഡുമോർട്ടഗേജ് ബാങ്കുകൊണ്ട് ചെയ്യുവാൻ സാധിക്കയില്ല. ഈ സംഗതി മനസ്സിലാക്കിയാൽ ഗവമ്മെൻറിന്ന് ഒരു പ്രയാസവുമില്ല. വാസ്തവത്തിൽ ഇഷ്യു രണ്ടുംകൂടി കുഴപ്പത്തിൽ ആക്കീട്ടുള്ള പ്രയാസമേയുള്ളൂ. ഗവമ്മെൻറിന്ന് ന്യൂനതയില്ലാത്തതരത്തിൽ, ഗവമ്മെൻറിന്റെ പണം പോകാത്തതരത്തിൽ, ഏതു ന്യായമായ സെക്യൂറിറ്റിക്കു പണം കൊടുക്കാമൊ ആ നിലയിലുള്ളതിനു മാത്രമേ കൊടുക്കാവു. അല്ലാത്തതിൽ ഗവമ്മെൻറു ഒരു കാര്യം കൊടുക്കേണ്ട. നിയമത്തിൽ ഭേദഗതി ചെയ്യുന്നതു സാധാരണ ഗവമ്മെൻറു പറയുന്ന ഭാഷയിൽ കാൺഫിസ്ക്യേഷനാണ്. അതു ലാൻഡുമോർട്ടഗേജ ബാങ്കിനു വേണ്ടേങ്കിൽ ഒന്നിനുവേണ്ടിയും ചെയ്യുവാൻ പാടില്ല. ഈ നിയമസഭ കടക്കാരെ രക്ഷിക്കുവാൻ എത്രമാത്രം ബാദ്ധ്യതപ്പെട്ടിരിക്കുന്നുവൊ അതിനേക്കാൾ അധികം ബാദ്ധ്യതപ്പെട്ടിരിക്കുന്നതു ടെനൻസിയുടെ അവകാശത്തെ രക്ഷിക്കുവാനാണ്. പൊതുജനങ്ങൾക്കു ടെനൻസിന്റെ അവകാശത്തെ രക്ഷിക്കുവാൻ ബാദ്ധ്യതയുണ്ടെങ്കിൽ ഈവക നിയമങ്ങൾ എടുക്കേണ്ട ആവശ്യമില്ല. ടെനൻസിയുടെ ഫലം അവക്കു എടുക്കത്തക്ക നിയമം വളരെ സൂത്രത്തിലെയുള്ളൂ. അതു മുഴുവൻ കൊടുക്കുകയാണു വേണ്ടതു്. ഈ കാര്യത്തിൽ പൊതുക്ഷേമത്തെമാത്രം എടുത്താൽമതി. അതുകൊണ്ടു ഗവമ്മെൻറു ഇപ്പോൾ ഈ കാര്യത്തിൽ എടുത്തിട്ടുള്ള നില ശരിയല്ലെന്നാണു എനിക്കു പറയുവാനുള്ളതു്. ഗവമ്മെൻറിനു ഈ ഇഷ്യു രണ്ടുംകൂടിക്കൂട്ടിയ കുഴപ്പമാണ്. ഈ ഭാഗത്തുനിന്നു യാതൊരു കുഴപ്പവുംകൂടാതെയാണു പറയുന്നതു്. പിന്നെ ഇതിന്റെ കാരണം ഒന്നു വിശദീകരിക്കണമെങ്കിൽ ഇനിയും ഒന്നുകൂടി വിവരിച്ചുകേട്ടാൽ പറയാമെന്നേ വിചാരിക്കുന്നുള്ളൂ.

* മിസ്റ്റർ ടി. കെ. നായർ (*Pazhayannur*).— സർ, ഇപ്പോൾ ഇവിടെ അവതരിപ്പിച്ച ബില്ലിനെ കൺസിഡർ ചെയ്തുകൊണ്ടു് അതിൽ ഞങ്ങൾക്കുണ്ടായ ന്യൂനതകൾ ലാൻഡുമോർട്ടഗേജ ബാങ്കിൽ നാട്ടുകാരുടെ പണമാണെന്നും അതു കടമെടുത്തിട്ടുള്ളതു് ഒരു പൈപോലും കളയാതെ മടക്കികിട്ടുവാൻ തക്ക സവ്വ നിയമങ്ങളും ഗവമ്മെൻറിനു വേണമെന്നുമാണ്. അങ്ങിനേയാണെങ്കിൽ ഇതു പസാക്കുവാൻ ഞങ്ങൾ തയ്യാറാണ്. ഇതിൽ ഉദ്ദേശിച്ചിരിക്കുന്നതു് അതാണൊ എന്നാണ് ഞങ്ങളുടെ സംശയം.

ലാൻഡുമോർട്ടഗേജ് ബാങ്കിൽ കടത്തിനു് ഞാൻ അപേക്ഷിക്കുന്നു. എന്റെ വസ്തു കുറെ പാട്ടത്തിനു കൊടുത്തിട്ടുണ്ട്. അതു് ഇരുപതൊ മുപ്പതൊ കൊല്ലത്തിനു മുമ്പാണ് പാട്ടത്തിനു കൊടുത്തിട്ടുള്ളതു്. അതിൽ അനവധി ചമയങ്ങൾ കൂടിയാൻ ഉണ്ടാക്കീ

* Speech not corrected by the Hon'ble Member.

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ട്ടുണ്ട്. ബാങ്കിന്ന് ആപ്ലിക്കേഷൻ കിട്ടിയാൽ ചമയങ്ങൾ നോക്കാൻ വരുന്നു. കുടിയാന്മാരുടെ ചമയത്തിന്നാണൊ പണം കൊടുക്കുന്നത്? അല്ല. ഞങ്ങൾ ഈ നിയമം പാസാക്കുകയാണെങ്കിൽ കുടിയാന്മാരുടെ ചമയവും ബാങ്കിലേക്കാണ്. എന്തുകൊണ്ടു കുടിയാന്മാരുടെ ചമയത്തിന്നു് പണം കൊടുത്തുകൂടാ, ജന്മിക്കു എന്തുകൊണ്ടു കൊടുത്തുകൂടാ? ലാൻഡ്മോർട്ട്ഗേജ് ബാങ്കിലേക്കു ഇരുപതുകൊല്ലം കൊണ്ടാണ് കുടം വാങ്ങിയസംഖ്യ മടക്കികൊടുക്കുന്നത്. ഈ ഇരുപതു കൊല്ലംകൊണ്ടു് പണയവസ്തുവിന്മേൽ യാതൊരു ഇംപ്രൂവ്മെൻറും ഉണ്ടാക്കുവാൻ പാടില്ലെന്നാണൊ ഗവൺമെൻറു പറയുന്നത്? ഒരിക്കലും അതു സമ്മതിക്കുവാൻ ഞങ്ങൾ തയ്യാറില്ല. ലാൻഡ് മോർട്ട്ഗേജ് ബാങ്കിനു കുടതൽ സംഭ്രയുണ്ട്. പണയം എഴുതിയശേഷം ഒരു കൊല്ലത്തെ ഇൻസ്റ്റാൾമെൻറു ബാങ്കിലേക്കു കിട്ടിക്കഴിഞ്ഞു. കുടിയാനു കുടം കുറഞ്ഞും ഇംപ്രൂവുമെൻറു വർദ്ധിച്ചും വരുന്നു. നമ്മുടെ പണം രക്ഷിക്കണമെന്നു ഒരേ ഒരു ഉദ്ദേശത്തോടുകൂടി കുടിയാൻ ഉണ്ടാക്കിട്ടുള്ളതു് ബാങ്കിലേക്കു എടുക്കണമൊ? ലാൻഡ്മോർട്ട്ഗേജ് ബാങ്കിലേക്കു പണയമെഴുതിയ വസ്തുവിന്നു യാതൊരു ഇംപ്രൂവുമെൻറും വരുത്തുവാൻ പാടില്ല എന്നു നിയമം ഉണ്ടാക്കുക. അങ്ങിനേയാണെങ്കിൽ അതിനു അർത്ഥമുണ്ട്. അപ്പോൾ എന്നും വസ്തു അങ്ങിനേതന്നെയിരിക്കണം. ഫാറ രൂപാ വിലയുള്ള ഒരു വസ്തുവിന്നു ഓ രൂപാ വിലകൊണ്ടു ഫ രൂപയെ കൊടുക്കുകയുള്ളൂ. ഇപ്പോൾ ഈ ന്യായമായി നടന്നുവരുന്നുണ്ട്. ഞാൻ അഡ്വൈസറി ബോർഡിലുള്ള ഒരാളാണ്. ഇതാണ് ഞാൻ ഇതിനെ ഒപ്പോസുചെയ്യുവാനുള്ള കാരണം.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ *(Ezhuvas North)*.— സർ, ഉത്തരവ്വന്മാർ, ഈ കൊച്ചീരാജ്യത്തു നോക്കിക്കഴിഞ്ഞാൽ വിരലിൽ എണ്ണുവാൻ മാത്രമേയുള്ളൂ. അങ്ങിനേയുള്ള ഉത്തരവ്വന്മാരുടെ ബാദ്ധ്യതകളെ മുൻനിറുത്തി ഗവൺമെൻറു യാതൊന്നും പ്രവൃത്തിക്കുവാൻ തയ്യാറില്ല എന്നു് ഇവിടെ പലപ്പോഴും വെളിപ്പെട്ടുത്തീട്ടുള്ളതാണ്. കുടിയാന്മാരെ ഉപദ്രവിക്കുവാനായിട്ട ഗവൺമെൻറു അനേപക്ഷണം നടത്തിയതിൽ ഈ ഒരു കാര്യം മാത്രമല്ലാതെ വേറെ യാതൊന്നുമില്ല എന്നു് ഗവൺമെണ്ടിന്നു ബോദ്ധ്യം വന്നിട്ടുണ്ടാവണം. ഈ ഒരെണ്ണം മാത്രം ബാക്കി വച്ചിരിക്കുന്നതു് എന്തിനാണെന്നാണു് ഞാൻ ഗവൺമെണ്ടിനോടു ചോദിക്കുന്നതു്. ഇതു് തീർച്ചയായിട്ടും പാസാക്കണം. ഇതുകൊണ്ടു മാത്രമേ കൊച്ചീരാജ്യത്തുള്ള സകല കുടിയാന്മാരേയും തീരെ നിർധനരാക്കി ഭിക്ഷയെടുപ്പിച്ചു് തെണ്ടിക്കുവാൻ സാധിക്കയുള്ളൂ. ഇതു് സെലക്ടു കമ്മിറ്റിക്കു അയക്കേണ്ട യാതൊരു കാര്യവുമില്ല. സാധുക്കളുടെ പ്രതിനിധികളായ ഞങ്ങൾ കുടിയാന്മാരുടെ കാര്യത്തെപ്പറ്റി എന്തെങ്കിലും ഇവിടെവന്നു പറയുകയാണെങ്കിൽ അതു് മുതലാളിത്വത്തെ താങ്ങുന്ന നമ്മുടെ ഗവൺമെൻറു ചവറുകൊട്ടയിൽ ഇടാറാണു് സാധാരണ പതിവു്. ഇൻഡസ്ട്രിയൽ സ്കൂളിൽനിന്നു വരുന്ന കൊട്ടകളെല്ലാം ഇ

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തിലേക്കുവേണ്ടിയാണ് ഗവൺമെൻറു ഉപയോഗിക്കുന്നതെന്ന് ഞങ്ങൾ വിചാരിക്കുന്നു. വസ്തുവിന്നു ഇപ്പോൾ കാണുന്ന വിലയുടെ കവിഞ്ഞാൽ 10 ശതമാനംമാത്രം കടംകൊടുക്കുന്ന ഭൂപണയബാങ്കിന്നു default കണ്ടാൽ ഉടൻ വലിയ വ്യവഹാരചിലവൊ ബുദ്ധിമുട്ടൊ ക്രമാതെ പണയവഹകൾ വിറ്റു വസൂൽചെയ്യാൻ സൌകര്യമുള്ളപ്പോൾ സാധുക്കളായനവന്മാരുടെ കഴിക്കുറ അവകാശക്കുടി മുതലാളിയുടെ കടത്തിന്നു വിൽക്കാനധികാരമുണ്ടായിരിക്കേണമെന്നു ഈ ബിൽ കൊണ്ടുവന്നാൽ പാവപ്പെട്ടവരെ കഠിനമായി ഉപദ്രവിക്കാൻ പണ്ടാരപ്പാട്ടമാവുമെന്നു ഉത്തമവിശ്വാസത്തോടുകൂടി നിർദ്ധനന്മാരുടെ സംഖ്യയും ബലവും വർദ്ധിക്കുവാനും വർദ്ധിപ്പിക്കുവാനും തന്മൂലം സോഷ്യലിസം ഉടനെ പ്രചരിക്കുവാനുംവേണ്ടി ഈ ബിൽ യാതൊരു എതിരുംകൂടാതെ പാസാക്കണമെന്നു ഞാൻ അഭിപ്രായപ്പെട്ടുകൊള്ളുന്നു.

* **Mr. E. Ikkanda Warriar** (*Urakam*).—My position is this. I thought that we are now considering the question whether it should be sent to a select committee. If that is so, I should think that it is the lesser evil so that the Council may think over the matter more seriously and suggest amendments. I was at the beginning against sending it to a select committee because I was opposed to the very Bill itself. I therefore submit that it is better that the Bill is sent to a select committee so that we may consider the question more seriously and suggest amendments.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I beg to move that the Bill be referred to a select committee consisting of—

(1) the Deputy President,
(2) the Government Advocate,
(3) Mr. P. Raman Menon,
(4) Mr. E. Ikkanda Warriar, and
(5) Mr. M. Sivarama Menon.

Motion was put and carried.

Mr. President.—The committee is to report within one month. The Deputy President will be the Chairman.

The Cochin Debt Conciliation Bill (contd).

Mr. President.—Consideration of the Debt Conciliation Bill will be continued after lunch.

* Speeches not corrected by the Hon'ble Member.

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